

REMARKS

A telephone interview between the Examiner and Dr. Khorrami (one of the inventors) and Dennis Smid (one of the applicants' undersigned attorneys) was held on December 28, 2004. Dr. Khorrami and Mr. Smid wish to thank the Examiner for her time and consideration for such interview.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103 or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Claims 13, 19, 25, 26, 28-37, 40-43 and 49-50, and new claims 51-58 are in this application.

The Examiner indicated that claims 37, 40-43, and 49-50 were allowed.¹

Claims 13, 25, 26 and 28-36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Spillman, Jr., U.S. Patent No. 5,440,300 in view of Edwards et al. U.S. Patent

¹ Note—During the December 28th interview, the Examiner indicated that claim 50 possibly should not have been indicated to be allowed. However, due to the amendments presented herein to independent claim 28 (from which claim 50 depends), claim 50 is believed to be distinguishable from the applied references.

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Independent claim 13, as presented herein, recites in part the following:

“whereby, in response to said modulated command signal, material characteristics of the respective actuator or actuators cause said modulated command signal to be demodulated without the use of any active electronic devices, whereupon said element is enabled to achieve the desired deformation.” (Emphasis added.)

In explaining the above 103 rejection with regard to claim 13, the Examiner appears to rely on Spillman and, in particular, line 40 of column 2 to line 11 of column 3 thereof, to disclose the above features of claim 13. However, and as discussed during the December 28th interview, it is respectfully submitted that such portion of Spillman (hereinafter, merely “Spillman”) does not disclose the above identified feature of claim 13.

Furthermore, during the December 28th interview, the Examiner indicated that claim 13 as presented herein is distinguishable from the applied combination of Spillman and Edwards. Accordingly, it is believed that claim 13 is distinguishable from the applied combination of Spillman and Edwards. For similar or somewhat similar reasons, it is also believed that independent claims 25 and 28 are distinguishable from the applied combination of Spillman and Edwards.

Claims 19, 26, 29-36, and 50 and new dependent claims 51-52 depend from one of the amended independent claims and, due to such dependency, are believed to be distinguishable from the applied combination of Spillman and Edwards for at least the reasons previously described.

New independent claim 53 and new dependent claims 54- 58 (which depend from

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claim 53) are also believed to be distinguishable from the applied combination of Spillman and Edwards for reasons similar to or somewhat similar to those described above.

In the event, that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where, in the reference or references, there is the basis for a contrary view.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant(s)

By 
Dennis M. Smid
Reg. No. 34,930
(212) 588-0800